

Draft Letter to U.S. Environmental Protection Agency Region 9

Regional Administrator  
EPA Region 9

Dear Administrator .....

The U.S. Nuclear Regulatory Commission (NRC) staff has initiated consultations with the staff from the U.S. Environmental Protection Agency (EPA) Region 9 regarding the ongoing Navy remediation of the Hunters Point Shipyard (HPS) site under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) and EPA oversight. NRC's interest in this site stems from the results of the Navy's Historical Radiological Assessment (HRA) in 2004, which provided new information and assumed the presence of material from Atomic Energy Commission (AEC) licenses previously terminated in 1970. The HRA also indicated that this material was likely to be commingled with and indistinguishable from atomic weapons testing material because the Navy's Radiological Defense Laboratory used both types of material in its research. The atomic weapons material has always been outside AEC-NRC jurisdiction, pursuant to Section 91b of the Atomic Energy Act. As a result of the HRA information, the Navy asked NRC to clarify the potential for NRC involvement with the remediation of the HPS site. The Navy also asked about NRC's new jurisdiction for radium-226 under the Energy Policy Act of 2005.

The NRC has decided that the most effective and efficient approach is to defer its authority and rely on the ongoing Navy remediation under the CERCLA process and EPA regulatory oversight. However, NRC would maintain a limited involvement to stay informed about the remediation effort.

Under this approach, NRC would not exercise its regulatory authority and not require compliance with its decommissioning regulations, but would retain the ability to respond to stakeholder questions. NRC would not conduct any formal regulatory reviews or participate in the ongoing CERCLA reviews of the Navy's remediation. However, NRC would retain the ability to access the site and remediation documents. NRC would primarily stay informed about the HPS remediation by using existing mechanisms such as standard Navy distributions and availability of the Administrative Record. NRC would also reserve the option of commenting to EPA to justify the continued reliance on the CERCLA process. Finally, NRC would continue its ongoing oversight of the Navy contractors' that have NRC licenses. Additional information about the preferred option is provided in the enclosed Commission paper and Commission's direction to the staff. I believe this option provides a balanced approach that allows remediation to proceed under CERCLA, avoids dual NRC-EPA regulation, and allows NRC to be in a position to respond to stakeholder questions in a timely and effective manner.

I request that you formally reply that EPA is in agreement with the NRC's proposed approach. I appreciate the assistance your staff has given to us, and if you have any questions regarding NRC's deferral and limited involvement, please call me at (301) 415-7197

Sincerely,

Charles L. Miller, Director  
Office of Federal and State Materials  
and Environmental Management Programs

Enclosure:  
Commission Paper and Directions to Staff

cc: Navy contacts  
State of California contacts  
City of San Francisco contacts